

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ORACLE AMERICA, INC.,

No. C 10-03561 WHA

Plaintiff,

v.

GOOGLE INC.,

**ORDER RE GOOGLE'S
MOTION TO STRIKE**

Defendant.

The parties could not agree to a stipulated form of order following the hearing on Google's motion to strike. Accordingly, the Court now rules as follows. The upcoming trial will proceed as if we were back in the original trial, but now with the instructions on fair use handed down by the court of appeals. No new copyrighted works will be allowed. Oracle's claims of copyright infringement in the upcoming trial are limited to infringement of Java SE 1.4 and Java SE 5.0. The only Android versions that will be in play in the upcoming trial will be the Android versions presented to the jury in the first trial plus the following (by Google's agreement to be subject to the prior jury's adverse finding that Google has infringed the overall structure, sequence, and organization of the 37 Java API packages in question):

- Gingerbread (released Dec. 2010);
- Honeycomb (released Feb. 2011);
- Ice Cream Sandwich (released Oct. 2011);

- Jelly Bean (released July 2012);
- KitKat (released Oct. 2013); and
- Lollipop (released Nov. 2014).

These six named Android releases comprise approximately 40 major and minor releases of Android.


As to all other versions and implementations of Android since the last operative complaint preceding the last trial, Oracle will retain the right to sue Google for infringement in a separate trial or proceeding. Among possibly others, our trial will *not* include implementations of Android in Android TV, Android Auto, Android Wear, or Brillo. Nevertheless, if Oracle prevails at the trial and if an injunction is warranted, the equitable remedy might extend beyond the versions expressly in play in the trial pursuant to the ordinary scope of equitable relief.

The following portions of Oracle's expert reports served on January 8, 2016, are stricken: Dr. Chris Kemerer: ¶¶ 47–50 (including heading E) and 208 (references to Java SE 6 and SE 7); Mr. Robert Zeidman: ¶¶ 45, 106 (all text after “Java SE 5”), 120–125 (including heading D), 146, and Exhibits V and W.

This order is without prejudice to possible admissibility of references to Java SE 6.0 and Java SE 7.0 as they relate to other issues in this case.

IT IS SO ORDERED.

Dated: February 5, 2016.


WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE